

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 22045 of 2006

Order:

The petitioner was appointed as Driver in the respondents-Corporation on 11.05.1976. While working as such, during medical examination, he was declared unfit to hold the post of Driver. Thereafter, on the representation dated 11.09.1987, made by the petitioner, seeking alternative appointment, as he was declared fit for X-category post during medical examination, he was appointed as Cleaner, by order dated 13.11.1987, and he retired from service on 30.04.2004 on attaining the age of superannuation. Now the grievance of the petitioner is that despite several representations the respondents failed to pay his balance retirement benefits by protecting his pay and other benefits in the post of Driver. Hence, he filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

A perusal of the record would show that as the petitioner was declared as medically unfit to hold the post of Driver, he was provided with alternative employment as Cleaner on 13.11.1987. Since then, he worked as Cleaner and retired from service on 30.04.2004 on attaining the age of superannuation. It is now the grievance of the petitioner that the respondents have to protect his pay in the post of Driver and pay him the balance of retirement benefits and arrears. I am unable to accept this contention of the petitioner. The petitioner on being found unfit to hold the post of Driver, was given alternative employment as Cleaner. Except protection of pay, the petitioner

cannot seek the scale of pay of the Driver while working as Cleaner. The petitioner was appointed as Cleaner on 14.11.1987 and he having worked in the said post for nearly 17 years and having received salary attached to said post up to the date of his retirement on 30.04.2004, cannot now be allowed to contend that he should be paid the retrial benefits, based on the scale of pay attached to the post of Driver. Had the petitioner been given alternative employment in the category or grade equivalent to that of Driver, carrying the same scale of pay, then he would have been justified in contending that he is entitled to the benefits attached to the said post. But the petitioner was given alternative employment in the post of Cleaner, which is inferior to the post of Driver, which he was found to be unfit to hold.

For the aforesaid reasons, the writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 19th December, 2006
KSR